

ROBERT S. TROY AND ASSOCIATES
ATTORNEYS AND COUNSELLORS AT LAW

90 ROUTE 6A • SANDWICH, MASSACHUSETTS 02563-1866 • 508-888-5700

ROBERT S. TROY

April 7, 2005

Clerk's Office
Suffolk Superior Court
U.S. Post Office & Courthouse
8th Floor
90 Devonshire Street
Boston, MA 02109

RE: Steven Dearborn vs. Barnstable County Sheriff's Department,
et al
Suffolk Superior Court Civil Action No. SUCV2005-00258-D
U.S. District Court Civil Action No. 0510642WGY

Dear Sir or Madam:

Enclosed please find a certified copy of the Barnstable County Defendants' Notice of Removal to the United States District Court for the District of Massachusetts. Please forward certified copies of the docket entries in the above-referenced matter to my office, so that I may forward the same to the U.S. District Court pursuant to Local Rule 81.1. My office will reimburse the court for any photocopy charges.

Thanking you for your assistance in this matter, I am,

Very truly yours,

Robert S. Troy, Jr.

Robert S. Troy

RST:cmh

Enclosure

cc: Mark Zielinski, County Administrator
Matthew J. Murphy, Esquire
Jim Hoffman
Steven Dearborn

FILED
CLERKS OFFICE
UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS
APR - 1 P 2:34

U.S. DISTRICT COURT
CIVIL ACTION NUMBER MASS.

STEVEN DEARBORN, pro se, Plaintiff
Vs.) 05 CV 10642 WGY

COMMISSIONER OF)
CORRECTIONS, BARNSTABLE)
COUNTY COMMISSIONERS,)
BARNSTABLE COUNTY SHERIFF)
AND BARNSTABLE COUNTY)
HOUSE OF CORRECTIONS)
SUPERINTENDENT,)
Defendants)



RECEIVED APR 1 2005
I hereby certify that the
copy of the foregoing document is true and correct copy of the
original document filed in the captioned case
 electronically filed original filed on 4-1-05
 original filed in my office on 4-1-05

Sarah A. Thornton
Clerk, U.S. District Court
District of Massachusetts

By: Sarah A. Thornton
Deputy Clerk

DEFENDANTS, BARNSTABLE COUNTY COMMISSIONERS,
BARNSTABLE COUNTY SHERIFF AND BARNSTABLE
COUNTY HOUSE OF CORRECTIONS SUPERINTENDENT'S
NOTICE OF REMOVAL

Defendants, Barnstable County Commissioners, Barnstable County Sheriff and Barnstable County House of Corrections Superintendent (hereinafter "Barnstable County Defendants") by their attorneys, hereby give notice that pursuant to 28 U.S.C. §§ 1441 and 1446 this action is removed to this Court from the Superior Court Department of the Trial

LAW OFFICES
ROBERT S. TROY
ROCKTANT HILL OFFICE PARK
80 OLD KINGS HIGHWAY
(ROUTE 6A)
SANDWICH, MA
02563-1966
TEL. (508) 888-5700

Court of the Commonwealth of Massachusetts in and for Suffolk County.

As grounds therefor, Defendants state that:

1. Steven Dearborn (hereinafter "Dearborn") is an inmate of the Barnstable County House of Correction and Jail.
2. On or about January 21, 2005, Dearborn filed a Complaint in Suffolk Superior Court seeking damages for mental distress, emotional distress, embarrassment, pain and suffering, which he allegedly suffered while incarcerated at the Jail and allegedly required to shower while in handcuffs.
3. This Complaint was served on the Barnstable County Defendants on March 8, 2005.
4. Dearborn's Complaint stated that the Defendants violated his rights under the Eight Amendment to the United States Constitution.
5. Dearborn's claim is governed by the Prison Litigation Reform Act, 42 U.S.C. §§ 1997e et seq..
6. Dearborn has failed to comply with and exhaust administrative remedies in accordance with the Prison Litigation Reform Act, 42 U.S.C. §§ 1997e et seq..

LAW OFFICES
ROBERT S. TROY
SEXTANT MILL OFFICE PARK
80 OLD KINGS HIGHWAY
(ROUTE 6A)
SANDWICH, MA
02563-1266
TEL. (508) 888-5700

7. Section 1141 of Title 28 permits the removal of "any civil action brought in a State court of which the district courts of the United States have original jurisdiction. . . ."
8. Section 1141(b) provides that "Any action of which the district courts have original jurisdiction founded on a claim or right arising under the Constitution . . . of the United States shall be removable without regard to the citizenship or residence of the parties."
9. Plaintiff's complaint seeks relief under the United States Constitution and federal statutes and therefore, presents a question of which the District Court has original jurisdiction.
10. Plaintiff alleges a violation of his constitutional right against cruel unusual punishment, a claim that necessarily requires interpretation of federal constitutional law, and therefore, a federal question.
11. Furthermore, before the plaintiff may proceed with a civil lawsuit, he is required to exhaust all remedies available to him under Prison Litigation Reform Act, 42 U.S.C. §§ 1997e et seq..
12. The plaintiff contends that he has exhausted all of said remedies, however, the County Defendants have raised as an Affirmative Defense the plaintiff's failure to exhaust all of the remedies available to him under Prison Litigation Reform Act, 42 U.S.C. §§

LAW OFFICES
ROBERT S. TROY
EDDANT HILL OFFICE PARK
95 OLD KINGS HIGHWAY
ROUTE 6A
SANDWICH, MA
02563-1556

TEL. (508) 888-5700

1997e et seq.. This will require an interpretation of federal law, and is therefore a federal question.

13. Since this Court has original jurisdiction of these claims pursuant to 28 U.S.C. § 1331, removal is proper under 28 U.S.C. §§ 1441 and 1446.
14. This Court has pendant jurisdiction over Dearborn's state law claims under 28 U.S.C. § 1441(c) and/or supplemental jurisdiction under 28 U.S.C. § 1337.
15. In accordance with 28 U.S.C. § 1446(a), copies of all documents served upon Defendants are attached hereto, as well as a copy of the County Defendants' Answer. Pursuant to Local Rule 81.1 attested copies of all of the pleadings and a certified copy of the docket sheet from the state court file shall be filed by the Defendants within thirty (30) days after the filing of this notice.

WHEREFORE, the defendants remove this action from the Superior Court Department of the Trial Court of the Commonwealth of Massachusetts in and for Suffolk County to the United States District Court for the District of Massachusetts.

LAW OFFICES
ROBERT S. TROY
SEXTANT HILL OFFICE PARK
RD OLD KINGS HIGHWAY
ROUTE 6A
SANDWICH, MA
02563-1800
TEL (508) 885-5700

Respectfully submitted,
For the Barnstable County
Defendants,
By their Attorney,



Robert S. Troy
Robert S. Troy & Associates
90 Route 6A
Sandwich, MA 02563
(508) 888-5700
BBO#503160

DATED: March 31, 2005

LAW OFFICES
ROBERT S. TROY
SEXTANT HILL OFFICE PARK
RD OLD KINGS HIGHWAY
ROUTE 6A
SANDWICH, MA
02563-1808
—
TEL. (508) 888-5700

4/28/05

U.S. District Court, MA

I am requesting a current copy
of the federal Liens that have
been filed against - UCC # IRS 95/0680

SS-016-36-6782 } John W Caizza
 } 292 MAIN ST
 } Milford, MA 01757

Former Business

J&J TAXI SHUTTLE SERVICE
EMP# 01-0431045

Any Questions
call (508)-478-8888

Thank You

John Caizza

292 MAIN ST
Milford, MA
01757

LURIE & KRUPP, LLP

ONE MCKINLEY SQUARE
BOSTON, MA 02109

PETER B. KRUPP
DAVID E. LURIE

TEL: (617) 367-1970
FAX: (617) 367-1971

SARA A. LAROCHE
THOMAS E. LENT

E-MAIL: dluria@luriekropp.com

FAX COVER SHEET

DATE: April 28, 2005
TO: USDC Clerk's Office
FAX NUMBER: 617-748-9096
PHONE NUMBER:
FROM: David E. Lurie
MESSAGE: Request for Copy of Docket Entry.
Civil Docket No.: 00-12079
Document: #96 Motion in Limine 11/8/00
Please call 617-367-1970 with payment details.
Thank you. Cynthia Pong.

NUMBER OF PAGES, INCLUDING COVER: 1

CONFIDENTIALITY NOTE

THE INFORMATION CONTAINED IN THIS FAX IS INTENDED FOR THE EXCLUSIVE USE OF THE ADDRESSEE AND MAY CONTAIN CONFIDENTIAL OR PRIVILEGED INFORMATION. IF YOU ARE NOT THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY FORM OF DISSEMINATION OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF THIS FAX WAS SENT TO YOU IN ERROR, PLEASE IMMEDIATELY NOTIFY US BY TELEPHONE.